

Introduction

Overall, candidates fared well on questions that required recitation of parts of the legal texts, and especially early sections/articles of those texts, but fared less well on scenario questions. There are several scenario questions every year, which are not complicated, but require taking the relevant knowledge and applying it to the situation described.

Marks could not be awarded where candidates were not accurate. For legal definitions, it is often not sufficient to paraphrase or summarise parts of the law since the meaning may be lost or unclear. Marks could not be awarded if the answer did not give the necessary detail or missed things entirely – for example see the comments on question 10.

Candidates also have a tendency to 'brain dump' everything they know about a particular topic in the hope of scoring some marks, which could be time wasted if on the wrong track.

Candidates are reminded to write neatly as they may risk not having scripts marked if too illegible.

Questions

Question number	Comments on questions
Question 1	This question was popular, and generally well answered. The majority of the question was based on Articles 2, 3 and 10 of the Community Design Regulation and high marks could be achieved by having a good knowledge of those articles. Being a straightforward question, requiring straightforward answers, meant that candidates who had prepared well fared well. Where marks were lost, this was due to failing to give the full details as stipulated in the mark scheme.
Question 2	Question 2 was popular among candidates and was the best answered with several candidates scoring full marks. The question aimed to test basic understanding of the differences in duration of protection for various IP rights, and candidates appeared to have a good understanding of these. The candidates who performed the best gave full, clear and concise answers and correctly identified the relevant time periods. Those candidates clearly knew the differences, which is not always easy given the number of different IP rights tested in this examination.
Question 3	Slightly less popular, question 3 was also not quite as well answered as question 1 or 2, but it still attracted reasonable marks from many candidates. Candidates had a tendency to miss points, such as it being irrelevant whether copying is direct or indirect in part a). Candidates also wasted time by writing a lot repetitively on points that sometimes but not always attracted marks,

Examiner's Report 2015
FC4 (D&C) - Design and Copyright Law

	presumably in the hope of scoring points. It is of course not about the amount that is written, but what is written, and candidates appeared not to have as much knowledge on infringement compared to the earlier questions. The question also required applying knowledge to a simple scenario, and so may have presented more of a challenge than questions that merely required recitation of the law.
Question 4	Question 4 was generally well answered and it was fairly easy to get high marks by reproducing the relevant part of the Act. The question of part a) was based on Section 1B of the UK Registered Designs Act, and should have been very familiar to candidates. Indeed, that seemed to be the case, and the question aimed to test the level of this knowledge. Similarly part b) related to priority claims, which again required basic knowledge of Section 14, and was generally well answered although candidates lost marks by not remembering – or at least not remembering to write down – key features such as the earlier application being filed in a Convention/WTO country.
Question 5	Another question on infringement, but this was better answered than question 3. This may be because question 5 is not a scenario-based question whereas question 3 was. Candidates are reminded that they are often required to apply their knowledge to simple scenarios, but that was not needed for this question. The question aimed at testing knowledge of infringement of UK and Community unregistered design rights, and therefore to also test knowledge of the differences in the relevant laws. Despite the potential for confusion in remembering what features belong to what law, candidates on the whole seemed to be able to distinguish between them. Where marks were lost, this was generally due to not being accurate in reciting the law and missing parts out of the answer that are specified in the relevant sections/articles.
Question 6	This question was less well answered than previous questions, perhaps because it required knowledge of a slightly more obscure area of Community designs – surrender. However, the questions asked were not difficult and were all based on Article 51 of the Implementing Regulation, Article 37 for the part relating to multiple applications and Article 25 for the part relating to disclaimers/invalidity proceedings. Perhaps candidates also found this a challenging question because it required bringing features from various parts of the Regulation together.
Question 7	Question 7 set a simple scenario relating to disclosure and subsistence of design rights. It was easy to pick up several marks by carefully considering the various features of the question and commenting on them. As can be seen from the mark scheme, the legal knowledge required was fairly basic, but it was necessary to consider how it could be applied to the scenario described. Some

Examiner's Report 2015
FC4 (D&C) - Design and Copyright Law

	<p>candidates wasted time or lost marks by writing page upon page of comments. For example, on whether various features of the fixtures and fittings were excluded from protection despite the question stating that you could assume that the design meets the basic requirements for protection.</p>
Question 8	<p>Protection available under UK unregistered design right changed following the IP Act 2014, such that 'parts of parts' are not protectable. This question aimed at eliciting a discussion as to whether this applied to features such as the chimney, and to consider whether the situation is the same in Europe as it is in the UK. Since the law change is recent, marks were available for discussing this in some way, but most candidates failed to mention it. Similarly, many candidates wrote at length for part a) iv) about whether features were visible in normal use or not, without considering whether the whole article could be considered as a complex product ... permitting assembly and reassembly; similarly for part b).</p>
Question 9	<p>Question 9 was unpopular among candidates. The question aimed at eliciting a discussion on joint ownership in the UK. Although not specifically provided for in the UK Registered Designs Act, candidates were expected to draw upon the knowledge they do have and make sensible comments about the acts referred to in the questions. There is not necessarily a right answer, but marks were given for discussing relevant points. Full marks could be obtained by making comments for each of parts a) to c) based on sections 2, 7, 15A and 15B of the UK Act, all of which clearly are on the syllabus, and trying to apply them to the present scenario. Application of these sections to a scenario is on the syllabus. Candidates scored well on this question by taking what they knew about ownership of UK registered designs and writing about it instead in the context of two owners and commenting on whether the situation was the same as or different to that for a single owner.</p>

Examiner's Report 2015
FC4 (D&C) - Design and Copyright Law

Question 10	This question was not well answered. It asked for noted on UK national unregistered right and the majority of candidates failed to consider copyright. Half of the marks available related to UDR, and half to copyright, so immediately the maximum marks available to some candidates was 5. A good answer, for each of copyright and UDR, simple required the candidate to consider the whole building, the individual panels, the interlocking features, and the building method (and any related literary materials) and comment on whether rights are available. A small number of marks were also available for recognising key features for subsistence of rights, for example, designs being recorded in a design document/model.
Question 11	Of the scenario questions, this was one of the better answered ones. The mark scheme sets out three main sections where marks were available, and most candidates scored marks in each section. Candidates appeared to do well in assessing the scenario and identifying what information was required.
Question 12	This question, a scenario on copyright infringement, was both the least popular and worst answered. Although based on sections 16, 21 and 56 of the CDPA, all of which are specifically listed on the syllabus, candidates did not seem to be confident in providing the advice requested or to have a thorough understanding of the sections being tested. When broken down as in the mark scheme, in every part of the question, marks were available for discussing what agreement existed between Harold and Martha, so marks were available for making sensible comments. However, without more detailed knowledge of these sections of the CDPA, getting high marks would always be difficult. This seemed to be a more challenging question, mainly due to lack of knowledge or understanding in this area.